

§ 536.130 Claims not cognizable as UCMJ claims.

Claims not cognizable under Article 139, UCMJ, and this subpart, include the following:

- (a) Claims resulting from negligent acts.
- (b) Claims for personal injury or death.
- (c) Claims resulting from acts or omissions of military personnel acting within the scope of their employment, including claims resulting from combat activities or noncombat activities, as those terms are defined in the Glossary of AR 27-20.
- (d) Claims resulting from the conduct of Reserve component personnel who are not subject to the UCMJ at the time of the offense.
- (e) Subrogated claims.
- (f) Claims for theft of services, even if such theft constitutes a violation of Article 134 of the UCMJ.
- (g) Claims for indirect, remote, or consequential damages.
- (h) Claims by entities in conflict with the United States or whose interests are hostile to the United States.

§ 536.131 Limitations on assessments arising from UCMJ claims.

(a) *Limitations on amount.* (1) A special court-martial convening authority (SPCMCA) has authority to approve a pay assessment in an amount not to exceed \$5,000 per claimant per incident and to deny a claim in any amount. If the Judge Advocate responsible for advising the SPCMCA decides that the SPCMCA's final action under the provisions of Rule for Courts-Martial 1107 in a court-martial arising out of the same incident would be compromised, the SPCMCA may forward the Article 139 claim to the general court-martial convening authority (GCMCA) for action.

(2) A GCMCA, or designee, has authority to approve a pay assessment in an amount not to exceed \$10,000 per claimant per incident and to deny a claim in any amount.

(i) If the GCMCA or designee determines that a claim exceeding \$10,000 per claimant per incident is meritorious, that officer will assess the soldier's pay in the amount of \$10,000 and forward the claim to the Commander

USARCS, with a recommendation to increase the assessment.

(ii) If the head of the area claims office (ACO) (usually the GCMCA's Staff Judge Advocate (SJA)) decides that the GCMCA's final action under the provisions of Rule for Courts-Martial 1107 in a court-martial arising out of the same incident would be compromised, that officer may forward the Article 139 claim to USARCS for action.

(3) Only TJAG, TAJAG, the Commander USARCS, or designee has authority to approve assessments in excess of \$10,000 per claimant per incident.

(b) *Limitations on type of damages.* Property loss or damage assessments are limited to direct damages. This subpart does not provide redress for indirect, remote, or consequential damages.

§ 536.132 Procedure for processing UCMJ claims.

(a) *Time limitations on submission of a claim.* A claim must be submitted within 90 days of the incident that gave rise to it, unless the SPCMCA acting on the claim determines there is good cause for delay. Lack of knowledge of the existence of Article 139, or lack of knowledge of the identity of the offender, are examples of good cause for delay.

(b) *Form and presentment of a claim.* The claimant or authorized agent may present a claim orally or in writing. If presented orally, the claim must be reduced to writing, signed, and seek a definite sum in U.S. dollars within 10 days after oral presentment.

(c) *Action upon receipt of a claim.* Any officer receiving a claim will forward it within two working days to the SPCMCA exercising jurisdiction over the soldier or soldiers against whom the claim is made. If the claim is made against soldiers under the jurisdiction of two or more convening SPCMCA's who are under the same GCMCA, forward the claim to that GCMCA. That GCMCA will designate one SPCMCA to investigate and act on the claim as to all soldiers involved. If the claim is made against soldiers under the jurisdiction of more than one SPCMCA at different locations and not under the same GCMCA, forward the claim to the SPCMCA whose headquarters is located